

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

ISAAC KRADY,

Plaintiff,

v.

ELEVEN SALON SPA,

Defendant.

MEMORANDUM & ORDER
16-CV-5999 (MKB) (RML)

MARGO K. BRODIE, United States District Judge:

Plaintiff Isaac Krady commenced the above-captioned action against Defendant Eleven Salon Spa on October 28, 2016, alleging violations of the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 277. (Compl., Docket Entry No. 1.) Defendant retained counsel who entered an appearance in the case, and requested an extension of time to answer the Complaint. (Def. Mot. for Extension of Time to Answer, Docket Entry No. 6.) On December 15, 2016, Defendant’s counsel moved to withdraw as Defendant’s attorney. (Def. Mot. to Withdraw as Att’y, Docket Entry No. 8.) On December 28, 2016, Magistrate Judge Robert M. Levy issued an order granting the motion to withdraw, advising Defendant that the time to answer the Complaint had elapsed, and directing Defendant’s former counsel to serve a copy of the order on Defendant. (Order dated Dec. 28, 2016.) Defendant’s former counsel filed proof of service of the December 28, 2016 order on Defendant. (Proof of Service, Docket Entry No. 9.)

Following the withdrawal of Defendant’s counsel, Plaintiff sought and obtained an entry of default against Defendant. (Request for Certificate of Default, Docket Entry No. 11; Clerk’s Entry of Default, Docket Entry No. 12.) On May 12, 2017, Plaintiff moved for default judgment. (Pl. Mot. for Default J., Docket Entry No. 14.) On May 17, 2017, the Court referred this matter

to Judge Levy for a report and recommendation. (Order dated May 17, 2017.) By report and recommendation dated July 28, 2017 (the “R&R”), Judge Levy recommended that the Court grant Plaintiff’s motion for default judgment and award Plaintiff statutory damages in the amount of \$18,000. (R&R 1, Docket Entry No. 17.) No party has objected to the R&R.

A district court reviewing a magistrate judge’s recommended ruling “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). “Failure to object to a magistrate judge’s report and recommendation within the prescribed time limit ‘may operate as a waiver of any further judicial review of the decision, as long as the parties receive clear notice of the consequences of their failure to object.’” *Sepe v. N.Y. State Ins. Fund*, 466 F. App’x 49, 50 (2d Cir. 2012) (quoting *United States v. Male Juvenile*, 121 F.3d 34, 38 (2d Cir. 1997)); *see also Almonte v. Suffolk Cty.*, 531 F. App’x 107, 109 (2d Cir. 2013) (“As a rule, a party’s failure to object to any purported error or omission in a magistrate judge’s report waives further judicial review of the point.” (quoting *Cephas v. Nash*, 328 F.3d 98, 107 (2d Cir. 2003))); *Wagner & Wagner, LLP v. Atkinson, Haskins, Nellis, Brittingham, Gladd & Carwile, P.C.*, 596 F.3d 84, 92 (2d Cir. 2010) (“[A] party waives appellate review of a decision in a magistrate judge’s report and recommendation if the party fails to file timely objections designating the particular issue.” (citations omitted)).

The Court has reviewed the unopposed R&R and, finding no clear error, the Court adopts Judge Levy's R&R in its entirety pursuant to 28 U.S.C. § 636(b)(1). The Court grants Plaintiff's motion for default judgment against Defendant Eleven Salon Spa. The Clerk of Court is directed to enter judgment in favor of Plaintiff against Defendant in the amount of \$18,000.

SO ORDERED:

s/ MKB
MARGO K. BRODIE
United States District Judge

Dated: December 21, 2017
Brooklyn, New York